

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

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In re:

PROMESA
Title III

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 3283-LTS
(Jointly Administered)

THE COMMONWEALTH OF PUERTO RICO,
et al.,

Debtors.
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[Related to Docket #18258, #17627, #17639, #18236, #18237]

**URGENT MOTION REGARDING FILING OF MOTION TO FURTHER EXTEND THE
VOTING DEADLINE FOR RETAIL INVESTORS SEVEN DAYS AND FOR
ADDITIONAL RELIEF TO REMEDY PROBLEMS IN THE SOLICITATION
PACKAGES AND PROCESSES**

Peter C. Hein, pro se, submits this urgent motion regarding the filing of his motion to extend the voting deadline for Retail Investors.

The original voting deadline was set for Monday, October 4, 2021 at 5 p.m. AST. On September 27, 2021 the Court extended the voting deadline to October 18, 2021. #18258.

This Court's order (#17639) required "solicitation packages" with ballots or notices with instructions for voting and/or election to be mailed by August 30, 2021 (#17639-page-4-¶-D, page-8-¶11, page-10-¶13). I filed my September 24, 2021 motion to extend the voting deadline for Retail Investors because, as discussed in my motion (#18237), it had become apparent that there have been delays in the mailing of "solicitation" packages, including ballots or notices with instructions for voting and/or election, to Retail Investors. Only on the afternoon of September 23, 2021 – three and one-half weeks after August 30 – did I receive the first four of what appear to be intended as "solicitation" packages. These four packages, three from one

broker and a fourth from a second broker, had only part of the information that should have come in a “solicitation” package, namely, a one page, one sentence “Dear Client” notice; a two page memo – with a 13 page list of CUSIPs – on Prime Clerk letterhead; and a flash drive with the plan, disclosure statement and a copy of pages 1 to 27 of #17639 – 5420 pages in English, and 5420 pages in Spanish. *See* #18237-page-8-to-10,16-to-31-of-35.

Because there is no Retail Investor committee (or other bondholder committee) there is no one in a position to broadly survey the status of mailings to Retail Investors. However, my brokers are major brokerage firms (Merrill Lynch and Morgan Stanley), so there is every reason to believe the delays in receipt of solicitation packages by Retail Investors are widespread and the result of a delay in the solicitation process by FOMB and/or its solicitation agents, and not the result of a delay by any one particular brokerage firm.

In my September 24 motion I noted that, while I then sought a voting deadline extension to at least October 18, 2021 to be consistent with what the Retired Employee Committee and UCC had requested, I reserved the right to seek further relief with respect to the voting deadline if additional issues pertinent to the delivery to DTC and voting process arose. #18237-pages 13-of-35.

Following the submission of my original motion (#18237), I learned (i) that FOMB now intends to file a Plan Supplement pertinent to the New GO Bonds and CVIs on October 11, 2021 (#18243-page-5-of-13-¶6), and (ii) that the actual deadline for a Retail Investor customer at one of my brokers – Merrill – would appear to be six days before the voting deadline set by the Court. #18247-page-1-to-3,11-to-13-of-17. With the extension by the Court of the voting deadline to October 18, 2021, that means – absent further relief from the Court – the effective deadline for action by Retail Investors at Merrill will be October 12 at 3 p.m. (six days before the current Court-established voting deadline). To provide Retail Investors even seven days to review and consider the FOMB’s October 11 Plan Supplement, the deadline for voting for Retail Investors must be pushed back at least 13 days after October 11 date on which FOMB proposes to file this Plan Supplement, i.e., to October 25, 2021, in which event a Retail Investor who is

required to provide instructions to the broker six days in advance would have (with the added seven day extension I am asking the Court to order) until October 19, 2021 at 3 p.m. In addition, as discussed in #18247, I identified other problems with the solicitation packages and processes that need to be remedied.

This new information was set forth in a reply on my motion (#18237) and response to FOMB's cross motion (#18243) that I filed (as #18247) on September 26, 2021. See my reply and response, #18247. With respect to the additional relief I requested in my September 26, 2021 reply and response, the Court stated that my requests were denied without prejudice to inclusion in a future motion. #18258-page-3-of-4. I am accordingly filing this additional urgent motion and the accompanying additional notice of hearing and motion.

* * *

Per Amended Case Management Order I.H (#17127-1-page-4-of-18), I reached out to counsel for FOMB in the late night of September 28 to see if the matter could be resolved by (1) FOMB agreeing to further extend the voting deadline for Retail Investors to October 25, 2021 and to the other relief I had outlined in my reply and response dated September 26, 2021 (#18247), or (2) at least, FOMB consenting to my moving as expeditiously as possible for me, by urgent motion, to seek such relief. Counsel for FOMB has advised me that they do not consent to the relief I seek.

My moving papers are filed to accompany this motion, in the interests of proceeding as expeditiously as possible. I was not able to file this Urgent Motion and the accompanying notice of hearing and motion until today because I had a long-standing all day and evening meeting on September 28, 2021. In addition, for scheduling purposes, I wish to advise the Court that I have a long-scheduled out-of-town trip and conference scheduled beginning with travel on September 30, the conference from September 30 through October 3, 2021 and return travel on October 3, 2021, and thus I do not anticipate that I will be in a position to work on and file a reply during that time period.

Certification

Pursuant to paragraph I.H of the Court's case management procedures, I certify that reasonable, good-faith communications have taken place between me and counsel for FOMB.

A proposed order is attached.

Dated: September 29, 2021

Respectfully Submitted,

/s/ Peter C. Hein

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Claim 10696

GO Bonds: 500,000 par amount, plus
unpaid interest to date

[5 separate CUSIPS: 74514LVX2
74514LWA1
74514LWM5
74514LWZ6
74514LB63]

PBA Bonds: 200,000 par amount, plus
unpaid interest to date

[CUSIP: 745235M24]

[PROPOSED] ORDER

It is hereby ordered that briefing on the Motion of Individual Bondholder to Further Extend Voting Deadlines for Retail Investors Seven Days and for Additional Relief to Remedy Problems in the Solicitation Packages and Processes will proceed as follows:

(b) any opposition papers shall be filed on or before _____, 2021;

(c) any reply papers shall be filed on or before _____, 2021.

LAURA TAYLOR SWAIN
United States District Judge

Certificate of Service

I, Peter C. Hein, certify that I have caused the foregoing “Urgent Motion Regarding Filing of Motion to Further Extend the Voting Deadline for Retail Investors Seven Days and for Additional Relief to Remedy Problems in the Solicitation Package and Processes” to be served via the Court’s CM/ECF system.

September 29, 2021

/s/ Peter C. Hein

Peter C. Hein